



3732

Docket No. DEP-0639

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicants : Christopher Rogers et al.

Serial No. : 09/998,972

Art Unit: 3732

Filed : October 31, 2001

Examiner: Lewis, Ralph A.

For : Vertebral Endplate Chisel

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner For Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on

December 29, 2003

(Date of Deposit)

DePuy Acromed

(Name of applicant, assignee, or Registered Representative)

Amy Achick

(Signature)

December 29, 2003

(Date of Signature)

RECEIVED  
JAN 12 2004  
TECHNOLOGY CENTER R3700

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**FIRST SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT**

Dear Sir:

This copy is supplemental to the Information Disclosure Statement mailed on November 18, 2003.

Pursuant to 37 C.F.R. §1.56 and in accordance with 37 C.F.R. §§1.97-1.98, information relating to the above-identified application is hereby disclosed. Inclusion of information in this statement is not to be construed as an admission that this information is material as that term is defined in 37 C.F.R. §1.56(b).

Applicant(s) reserve(s) the right to establish the patentability of the claimed invention over any of the information provided herewith, and/or to prove that this

01/07/2004 AOSMAN1 00000113 100750 09998972

01 FC:1806 180.00 DA

information may not be prior art, and/or to prove that this information may not be enabling for the teachings purportedly offered.

This statement should not be construed as a representation that a search has been made, or that information more material to the examination of the present patent application does not exist.

☐ In accordance with §1.97(b), since this Information Disclosure Statement is being filed either within three months of the filing date of the above-identified national application (other than a continued prosecution application under §1.53(d)), within three months of the date of entry into the national stage of the above identified application as set forth in §1.491, or before the mailing date of a first Office Action on the merits of the above-identified application, or before the mailing date of a first Office Action after the filing of a request for continued examination under §1.114, no additional fee is required.

☐ In accordance with §1.129(a), this Information Disclosure Statement is being filed in connection with ☐ the first or ☐ second After Final Submission, therefore:

- ☐ Statement in Accordance with §1.97(e) (attached); or
- ☐ Please charge Deposit Account No. 10-0750/ / the fee of \$180.00 as set forth in §1.17(p).

☒ In accordance with §1.97(c), this Information Disclosure Statement is being filed after the period set forth in §1.97(b) above but before the mailing date of either a Final Action under §1.113 or a Notice of Allowance under §1.311, or an action that otherwise closes prosecution and that it is accompanied by one of:

- ☐ Statement in Accordance with §1.97(e) (attached); or
- ☒ Please charge Deposit Account No. 10-0750/DEP0639/TMD the fee of \$180.00 as set forth in §1.17(p).

☐ In accordance with §1.97(d), this Information Disclosure Statement is being filed after the mailing date of either a Final Action under §1.113 or a Notice of Allowance under §1.311 but before the payment of the Issue Fee. Applicant(s) hereby petition(s) for consideration of this Information Disclosure Statement. Included are: Statement in Accordance with §1.97(e) as set forth below and the fee of \$180.00 as set forth in §1.17(p).

☒ Copies of each of the references listed on the attached Form PTO-1449 are enclosed herewith.

☐ Copies of references listed on the attached Form PTO-1449 are enclosed herewith EXCEPT THAT:

☐ In view of the voluminous nature of references [list as appropriate], and the likelihood that these references are available to the Examiner, copies are not enclosed herewith.

☐ If any of the foregoing publications are not available to the Examiner, Applicant will endeavor to supply copies at the Examiner's request.

☐ Copies of only foreign patent documents and non-patent literature are enclosed in accordance with 37 CFR 1.98 (a)(2). (The U.S. patents and each U.S. patent application publication listed on the attached Form PTO-1449 are not

enclosed because this U.S. patent application was filed after June 30, 2003 or this international application has entered the national stage under 35 USC §371 after June 30, 2003 (see USPTO waiver of requirement under 37 CFR 1.98 (a)(2)(i)).

☒ There are no listed references which are not in the English language.

☐ The relevance of those listed references which are not in the English language is as follows:

☐ Attached are copies of search report(s) from corresponding patent application(s), which are listed on the attached Submission Under MPEP 609 D.

Copies of the references listed on the search report(s) are included except for those previously cited in an IDS mailed .

☐ Attached are the following non-published pending patent applications which may be deemed relevant, which are listed on the attached Submission Under MPEP 609 D.

Please charge any deficiency or credit any overpayment to Deposit Account No. 10-0750/DEP0639/TMD. This form is submitted in triplicate.

Respectfully submitted,



Thomas M. DiMauro  
Reg. No. 35,490  
Attorney for Applicants

Johnson & Johnson  
One Johnson & Johnson Plaza  
New Brunswick, NJ 08933-7003  
(508) 880-8401  
DATED: 12.18.03